



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

REDACTED VERSION*

Matter of: Decision Systems Technologies, Inc.;
NCI Information Systems, Inc.

File: B-257186; B-257186.2; B-257186.6

Date: September 7, 1994

Robert M. Cambridge, Esq., for Decision Systems Technologies, Inc.; and J. Patrick McMahon, Esq., for NCI Information Systems, Inc., the protesters.
Hugh A. Norton, Esq., SSDS, Inc., an interested party.
Andrew D. Fallon, Esq., and John Pettit, Esq., Department of the Air Force, for the agency.
John L. Formica, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency properly considered only the prime contractor/offeree's management experience in its evaluation of proposals, and not that of its proposed subcontractors, where the solicitation specified that past management experience would be evaluated based on the "offeror's" experience and it was necessary for the prime contractor to possess relevant management experience in order to assure successful performance of the contract.
2. Agency reasonably projected the protester's costs in its cost realism analysis to account for an apparent understatement in the protester's subcontractor's costs.
3. Agency reasonably evaluated the awardee's proposed approach as excellent, even though the awardee's proposed staffing level was less than the agency's estimate, where the agency reasonably determined that, because of the awardee's innovative approach to the performance of the contract and its successful performance on a similar contract, the awardee's level of performance would not be compromised by its lower staffing level.

*The decision issued on September 7, 1994, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

4. Agency reasonably found a protester's proposal unacceptable where the individuals proposed by the protester for certain positions failed to meet the minimum personnel requirements set forth in the solicitation.

DECISION

Decision Systems Technologies, Inc. (DSTI), and NCI Information Systems, Inc. protest the award of a contract to SSDS, Inc. under request for proposals (RFP) No. F05604-93-R-9009, issued by the Department of the Air Force for the operation and maintenance of the computer network at Peterson Air Force Base (AFB), Colorado.

We deny the protests.

The RFP, issued as a total small business set-aside, contemplated the award of a cost-plus-award-fee contract for a 4-month base period with four 1-year options. The successful offeror will provide all labor, materials, management and supervision necessary for the operation; maintenance; and expansion of the existing computer network system at Peterson AFB, including network operations; training; customer support; and hardware, software and firmware acquisition. With regard to customer support, the RFP required, among other things, that the contractor maintain a "help desk" to manage and resolve user problems and questions.

The RFP provided that award would be made to the responsible offeror whose offer, conforming to the solicitation, was determined to be most advantageous to the government, cost and other factors considered. The RFP listed the following evaluation factors and subfactors, in descending order of importance:

(a) Management

- (1) Program Management
- (2) Personnel
- (3) Quality Program

(b) Technical

- (1) Operations
- (2) Installations
- (3) PC and Software Maintenance Management
- (4) Training
- (5) Security

(c) Cost

Offerors were informed that their proposals would be evaluated under a color/adjectival rating scheme for each of the listed management and technical evaluation factors and subfactors¹, and would be evaluated for proposal risk to assess the risk associated with an offeror's proposed approach, and for performance risk to assess the probability of successful performance based on the offeror's past performance.² The RFP also provided that cost proposals would not be separately evaluated under the color/adjectival rating scheme, but would be evaluated for reasonableness, realism, and completeness.

The RFP requested the submission of separate management, technical, and cost proposals, and provided detailed instructions for the preparation of proposals. An estimated level of effort of 28 man-years for the base period and each option year of the contract was provided "for informational purposes"; offerors were informed that this "was a government estimate and the actual manning may be higher or lower." The solicitation also set forth "personnel qualification requirements," which detailed the education and experience requirements for certain proposed personnel, and required the submission of resumes for the positions of program manager; senior systems operator; senior systems analyst; systems engineer; communications engineer; and software/database engineer. The RFP, while stating that discussions would be held if necessary, encouraged offerors to submit their best offers in their initial proposals because the agency intended to make award on the basis of initial proposals without discussions.

The agency received 13 offers in response to the RFP, including those of SSDS, DSTI, and NCI; only the proposals of SSDS and DSTI were determined to be technically acceptable. Specifically, the agency rated SSDS's management proposal as "blue/exceptional" with "moderate" proposal risk, and its technical proposal as "green/acceptable" with "low" proposal risk, at an evaluated cost of \$7,491,470. DSTI's management and technical proposals were both rated as "green/acceptable" with "low" proposal risk, at an evaluated cost of \$11,265,927. NCI's management proposal was rated as "red/unacceptable," and its technical proposal was rated "green/acceptable."

¹The color/adjectival ratings were blue/exceptional, green/acceptable, yellow/marginal, and red/unacceptable.

²The evaluation ratings for proposal risk and performance risk were high, moderate, and low.

The agency concluded that discussions were not necessary, and that SSDS's proposal represented the best overall value to the government. Award was made to SSDS and these protests followed.

DSTI'S PROTEST

DSTI protests the evaluation of its proposal, and asserts that the agency acted improperly in according "no evaluation credit to the DSTI team for past performance of the subcontractor members of the DSTI team." The protester argues that in its view "[a]ll evaluated weaknesses in past experience in the DSTI proposal resulted from a lack of credit for specific on-point experience and capability possessed by DSTI's subcontractors."³

The RFP informed offerors that their management proposals would "be evaluated for demonstration of sound management principles and successful past performance" to ensure that the requirements set forth in the solicitation were met. Specifically, the RFP provided that management proposals would be evaluated under the program management subfactor for "[s]oundness of [a]pproach and [u]nderstanding of the [r]equirement" and "[p]ast [p]erformance," with the agency's assessment of past performance being determined by "how well the offeror has performed on similar contracts." [Emphasis added.]

The agency states that, in accordance with the RFP, only the offeror's past performance in program management would be considered; indeed, the RFP made no mention of any evaluation of an offeror's proposed subcontractor's management experience. The agency explains that because the offeror/prime contractor, rather than any proposed subcontractors, would be ultimately responsible for the management and successful performance of the contract, the agency, in performing its evaluation of DSTI's management proposal under the program management subfactor, considered only DSTI's program management experience, and not the claimed management experience of DSTI's proposed subcontractors. Based on its evaluation, the agency concluded that DSTI's proposal did not demonstrate sufficient program management experience.⁴

³DSTI's proposed subcontractors are [DELETED] and [DELETED].

⁴DSTI's proposal nevertheless received a rating of green/acceptable with low proposal risk under the program management subfactor because, for example, its management plan was considered "well structured."

Agencies may consider an offeror's subcontractor's experience under relevant evaluation factors where the RFP allows for the use of subcontractors to perform the contract and does not prohibit the consideration of subcontractor's experience in the evaluation of proposals. See Premier Cleaning Sys., Inc., B-249179.2, Nov. 2, 1992, 92-2 CPD ¶ 298; George A. and Peter A. Palivos, B-245878.2; B-245878.3, Mar. 16, 1992, 92-1 CPD ¶ 286; Commercial Bldg. Serv., Inc., B-237865.2; B-237865.3, May 16, 1990, 90-1 CPD ¶ 473. On the other hand, where an agency has legitimate reasons for concluding that the successful offeror itself must possess the relevant experience in order to ensure successful performance of the contract it may, consistent with the RFP, consider only the offeror's experience in the evaluation of proposals, and not that of its proposed subcontractors. See Technology and Management Servs., Inc., 70 Comp. Gen. 58 (1990), 90-2 CPD ¶ 375; Jim Welch Co., Inc., B-233925.2, July 12, 1989, 89-2 CPD ¶ 34.

Here, the agency had legitimate reasons for considering only DSTI's experience in its evaluation of DSTI's proposal under the program management subfactor because DSTI, as the small business offeror/prime contractor, would have ultimate responsibility for the management and performance of this contract.⁵ This was consistent with the RFP that only referenced the "offeror's" experience as a consideration in evaluating management proposals.

DSTI also questions the agency's cost realism analysis of its proposal, which resulted in an upward adjustment of DSTI's proposed costs from \$7,825,955 to \$11,265,927.

When agencies evaluate proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation § 15.609(d). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represents what the contract should cost, assuming reasonable economy and efficiency. CACI, Inc.--Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542. Because the contracting agency is in the best position to make this cost realism determination, our review of an agency's exercise of judgment in this area is limited to determining whether the agency's cost evaluation was

⁵We note that the experience and technical expertise of DSTI's proposed subcontractors were not ignored by the agency in its evaluation of DSTI's proposal. Indeed, it was considered favorably by the agency in its evaluation of DSTI's proposal under the "technical" evaluation factor.

reasonably based and not arbitrary. General Research Corp., 70 Comp. Gen. 279 (1991), 91-1 CPD ¶ 183, aff'd, American Management Sys., Inc.; Department of the Army--Recon., 70 Comp. Gen. 510 (1991), 91-1 CPD ¶ 492.

The agency explains that much of the upward adjustment to DSTI's proposed costs resulted from a significant discrepancy between the cost data provided by [DELETED], one of DSTI's subcontractors, and the amount included in DSTI's cost proposal for [DELETED].⁶ The agency found that [DELETED] cost proposal displayed a range of hourly, fully loaded rates of [DELETED] to [DELETED], depending on the labor category. However, the rates used by DSTI in its cost proposal to calculate [DELETED] costs ranged from [DELETED] to [DELETED]. The agency concluded that DSTI had not used fully loaded labor rates for [DELETED] in preparing its cost proposal, but rather had used only [DELETED] salary rates. The agency thus made an upward adjustment to DSTI's cost proposal to account for this discrepancy, which resulted in a determination that the most probable cost of DSTI's proposal was \$11,265,927.

In its comments on the agency report, DSTI responded to the agency's detailed explanation of its cost realism analysis by arguing only that "the contract between DSTI and [DELETED] is a firm-fixed, hourly-wage contract." However, DSTI concedes that this was not set forth in either the DSTI or [DELETED] cost proposals, and further, has not provided any evidence, such as a copy of its agreement with [DELETED], to substantiate its claim. Under the circumstances, we find reasonable the agency's cost realism adjustments to DSTI's proposed cost, based upon the cost information set forth in [DELETED] cost proposal.

DSTI also challenges the agency's evaluation of SSDS's proposal, arguing that the agency acted unreasonably in "giv[ing] high technical marks" to SSDS's proposal in view of the manning level proposed by SSDS to perform the contract. DSTI contends that the total number of personnel proposed by SSDS to perform the contract--[DELETED]--is insufficient in view of the estimated level of effort of 28 man-years set forth in the RFP. DSTI argues that, according to "the industry standard for management of a system," such as that at Peterson AFB, "40 personnel is a realistic objective, and 20 personnel is an objective for

⁶[DELETED] submitted its subcontractor cost proposal directly to the agency. DSTI's counsel had access under a protective order to [DELETED] cost proposal, which was identified as protected material.

the future Air Force." DSTI also challenges the agency's conclusions with regard to SSDS's proposed manning of the help desk.'

The evaluation of technical proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16. In reviewing an agency's evaluation, we will not reevaluate technical proposals but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. MAR, Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367. An offeror's mere disagreement with the agency does not render the evaluation unreasonable, particularly where the procurement concerns sophisticated technical hardware or services. Medland Controls, Inc., B-255204; B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260.

The agency determined that SSDS's proposed management and technical approaches, in conjunction with the "[e]xcellent personnel proposed," would enable SSDS to perform the contract in accordance with the RFP's statement of work (SOW), despite SSDS's comparatively small staff. For example, the agency determined that SSDS's proposed organizational structure would allow its staff to accomplish the required work in a more streamlined fashion because, among other things, it provides for the [DELETED]. Further, the agency found that the [DELETED]. The agency also found that SSDS's proposed use of an [DELETED] would eliminate the need for certain positions, as it would provide certain information and accomplish certain tasks [DELETED]. In this regard, the agency noted that the [DELETED]. The agency also considered SSDS's performance of a Department of the Army contract similar in scope to that contemplated here, where SSDS has been able to reduce personnel from 28 as employed by the incumbent contractor to [DELETED] through the use of the same technical and management strategies as proposed by SSDS here, while performing in a manner that the

'DSTI also initially questioned the agency's evaluation of SSDS's proposal with regard to the RFP's requirement that the successful contractor provide sufficient personnel to add 40 to 100 new installations per month. The agency described in detail how SSDS's proposal demonstrated the capability to add [DELETED] installations per month with the personnel proposed. Since DSTI did not respond to the agency's position in any of its subsequent filings, we consider the protester to have abandoned this particular aspect of its protest. TM Sys., Inc., B-228220, Dec. 10, 1987, 87-2 CPD ¶ 573.

Army characterized as "excellent" in response to an Air Force questionnaire.⁸

DSTI also argues that SSDS's proposal does not allocate sufficient personnel to adequately staff the help desk in accordance with the terms of the SOW. In this regard, the SOW required that the successful contractor maintain a help desk to answer the questions and resolve the problems of network users. The RFP specified that the help desk be available from 6 a.m. to 6 p.m., Monday through Friday, and from 8 a.m. to 3 p.m. on Saturdays, and that help desk calls be resolved within 2 minutes. In response to a question asked during a pre-proposal conference concerning the number of help desk calls currently averaged, the agency provided offerors with historical data for March 1993 through July 1993, which showed that the number of help desk calls ranged from 346 to 596 per month. DSTI contends here that despite the historical data provided in the solicitation regarding the volume of help desk calls, which showed that the help desk received an average of 519 calls per month, offerors should have based their proposed help desk staffing on the assumption that the number of help desk calls would average 1,800 calls per month.⁹ DSTI argues that SSDS's proposed approach to staffing the help desk is inadequate because according to SSDS's proposal it was based on the assumption that the number of calls to the help desk would average [DELETED] per month.¹⁰

The agency evaluated SSDS's proposed approach to maintaining the help desk as being "exceptional" because the agency found, for example, that the SSDS's proposed [DELETED], and SSDS's [DELETED] to providing the required services, which [DELETED], would provide superior service to help desk

⁸According to the record, SSDS commenced performance of its contract with the Army on June 10, 1993, and performance of the contract is continuing. The estimated total value of SSDS's contract with the Army is \$15.2 million.

⁹To substantiate the accuracy of its assumption, DSTI asserts that the actual number of calls received by the help desk totaled 1,751 for May 1994.

¹⁰To the extent that the protester is arguing that the solicitation was misleading or defective because of the inclusion of the historical data concerning the help desk which showed that user calls to the help desk averaged 519 per month, the protester's argument, raised more than 5 months after the closing date for the receipt of initial proposals, is untimely and will not be considered. 4 C.F.R. § 21.2(a)(1) (1994); See American Int'l Global, B-247896, July 2, 1992, 92-2 CPD ¶ 3.

users. The agency also found that SSDS had [DELETED] concerning the help desk provided by the agency to the offerors, and that this would enable SSDS "to focus on problems before they get out of hand." The agency points out in response to DSTI's protest that in its proposal SSDS stated that based on its past experience SSDS's help desk personnel have been able to handle [DELETED] help desk calls per month each, and that with SSDS's minimum staffing of the help desk with [DELETED] personnel, SSDS would be able to handle approximately [DELETED] calls per month.

Based on our review of the record, we cannot conclude that the agency acted unreasonably in its evaluation of SSDS's overall and help desk manning. As the discussion above indicates, the agency's evaluation was thoughtful and detailed, and took into consideration all aspects of the SSDS's proposal, including its management and technical approaches; past performance; proposed staffing; and cost. Indeed, while the agency rated SSDS's management proposal as "excellent" and its technical proposal as "acceptable," it determined that SSDS's proposed manning level created a "moderate" proposal risk. While DSTI clearly disagrees with the agency's determinations concerning SSDS's proposed manning levels, the protester has provided no basis for our Office to find unreasonable the agency's considered judgment in this regard.¹¹ See HSG-Intelcom, B-254750.2; B-254750.3, Feb. 7, 1994, 94-1 CPD ¶ 74.

¹¹The protester appears to argue that agency's cost realism analysis of SSDS's proposal was flawed in that no upward adjustment was made to account for the additional personnel which will be required by SSDS to adequately perform the contract. Because we find that the agency reasonably evaluated SSDS's proposal with regard to SSDS's proposed staffing level and determined that SSDS could adequately perform with the manning level proposed, we have no basis on which to object to the agency's cost realism analysis of SSDS's proposal.

NCI'S PROTEST

NCI also protests that the evaluation of its and SSDS's proposals was unreasonable.¹² With regard to the evaluation of its own proposal, NCI argues that the agency unreasonably determined that NCI's proposed personnel failed to meet the minimum personnel requirements set forth in the solicitation and that the agency acted improperly in not considering "NCI's proposed subcontractor's relevant past performance under the [m]anagement [a]rea."

The RFP, as mentioned previously, set forth "personnel qualification requirements," which detailed education and experience requirements for certain proposed personnel, and required the submission of resumes for the program manager; senior systems operator; senior systems analyst; systems engineer; communications engineer; and software/database engineer. In its evaluation of NCI's proposal, the agency found that neither of the individuals proposed by NCI for the positions of senior systems operator and software/database engineer met the knowledge and experience requirements detailed in the RFP. With regard to the individual proposed for the position of senior systems operator, the agency found that the resume of that individual did not contain any evidence that the individual possessed "a working knowledge of . . . Windows for Workgroups [and] Banyan Vines," as required by the RFP. The agency explains that these software programs are essential to the operation of the network. With regard to the individual proposed for the position of software/database engineer, the agency found that the resume of that individual did not contain any evidence that the individual possessed the level of experience required by the RFP in database structures; analysis; design and support; or an understanding of government processes, procedures, and jargon. Because these resumes "failed to meet [the] minimum personnel experience requirements" set forth in the RFP, the agency rated NCI's management proposal, under the personnel subfactor, as "red/unacceptable," and as "red/unacceptable" overall.

¹²In its original protest to our Office, NCI argued, without any explanation, that the agency's determination "to make an award without discussions did not result in an award most advantageous to the government." In its report on NCI's protest, the agency responded to NCI's allegation, explaining why award upon initial proposals without conducting discussions was proper here. Since NCI did not respond to the agency's position in any of its subsequent filings, we consider NCI to have abandoned this allegation of its protest. TM Sys., Inc., supra.

NCI does not substantively respond to the agency's determinations; that is, the protester does not assert in any manner that the resumes of the individuals in question meet the knowledge and experience requirements set forth in the RFP.¹³ Based on our review of the resumes submitted by NCI in its proposal, we agree with the agency that the resumes of the individuals proposed by NCI for the positions of senior systems operator and software/database engineer do not meet the minimum personnel requirements set forth in the RFP for the reasons documented by the agency. Accordingly, we find reasonable the agency's evaluation of NCI's proposal and conclusion that it was unacceptable.¹⁴

Because the agency reasonably evaluated NCI's proposal as unacceptable because the personnel proposed by NCI failed to meet certain minimum experience requirements, we need not address NCI's contention that the agency acted improperly in not considering NCI's proposed subcontractor's experience

¹³NCI asserts that from its reading of the record, "it is not at all clear in what respects the individuals fail to meet the stated requirements." The record, to which NCI's counsel was given access under protective order, refutes this contention. For example, the evaluation narrative of NCI's proposal, contained in the agency's proposal analysis report, states in two places that with regard to the senior systems operator that the "[senior systems operator] failed to demonstrate working knowledge of [Windows for Workgroups] and Banyan Vines." With regard to NCI's proposed software/database engineer, the narrative explains that "[t]he database engineer failed to demonstrate familiarity with the business methods and requirements of the government with respect to database development . . . [and] failed to demonstrate a thorough knowledge of government standard software, hardware, commercial [personal computers], [commercial off the shelf] software and the Peterson Complex Network."

¹⁴NCI argued for the first time in its comments filed with our Office on July 18, 1994, that the agency did not treat offerors equally in its evaluation of proposed personnel. Considered most favorably to the protester, this protest issue is based on information contained in the agency's report on B-257186.2, which was submitted to our Office and the protester on June 15. In order to be timely under our Bid Protest Regulations, this issue should have been raised within 10 working days of NCI's receipt of the agency report. 4 C.F.R. § 21.2 (a) (2); Lockheed Aircraft Serv. Co., B-255305; B-255305.2, Feb. 22, 1994, 94-1 CPD ¶ 205; Unitor Ships Serv., Inc., B-245642, Jan. 27, 1992, 92-1 CPD ¶ 110. Since NCI did not do so, we will not consider this issue.

under the program management evaluation subfactor. See Lucas Aerospace Communications & Elecs., Inc. B-255186, Feb. 10, 1994, 94-1 CPD ¶ 106.

Finally, to the extent that NCI challenges the agency's evaluation of SSDS's proposal, NCI is not an interested party to do so. A party is not interested to maintain a protest if it would not be in line for award if the protest were sustained. 4 C.F.R. §§ 21.0(a) and 21.1(a). Here, given the reasonable determination by the agency that NCI's proposal was unacceptable, if we were to sustain NCI's protest of the evaluation of SSDS's proposal, DSTI, whose proposal, as mentioned previously, was evaluated as acceptable with low proposal risk, would be in line for award. Since NCI would not be in line for award if we were to sustain its protest of the agency's evaluation of SSDS's proposal, it is not an interested party to assert this protest challenge. Collins & Aikman Corp., B-247961, July 22, 1992, 92-2 CPD ¶ 41.

In sum, based on our review of the record, we conclude that the agency acted reasonably in its evaluation of the proposals submitted by SSDS, DSTI, and NCI, and that its selection of SSDS for award was reasonable and consistent with the evaluation criteria set forth in the solicitation.

The protests are denied.

Robert P. Murphy
Acting General Counsel